

O

JS - 6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JUAN RANGEL, an individual)	Case No. CV 10-00129 DDP (FMOx)
and FINANCIAL PLUS)	
INVESTMENTS, INC., a)	
California corporation on)	ORDER GRANTING DEFENDANTS' MOTION
behalf of themselves and all)	TO DISMISS
others similarly situated,)	
)	
Plaintiffs,)	[Dkt. Nos. 32, 36]
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
and ERIC HOLDER, in his)	
official capacity as United)	
States Attorney General,)	
)	
Defendants.)	
)	
_____)	

Presently before the court is Defendants' Motion to Dismiss. Having reviewed the parties' submissions, the court grants the motion and adopts the following order.

I. Background

This putative class action was originally filed by Plaintiffs Juan Rangel and Financial Plus Investments, Inc. Those plaintiffs were ultimately unable to serve as class representatives. Plaintiffs' counsel therefore filed a motion for leave to file a

1 second amended complaint substituting Plaintiff Nerelys Camacho
2 ("Camacho") as representative plaintiff. (Dkt. No. 21.)
3 Defendants opposed the motion, arguing that Camacho could not
4 establish that venue was proper in this district. (Docket No. 23).
5 Though the court granted leave to file the second amended complaint
6 in the interest of justice, the court also explained that
7 Defendants remained free to assert a venue challenge and all other
8 defenses. (Dkt. No. 27.)

9 As alleged in the Second Amended Complaint ("SAC"), Camacho is
10 a resident of San Diego County. (SAC ¶ 13.) In 2009, Drug
11 Enforcement Agency agents seized a Porsche Cayenne automobile, then
12 in Camacho's possession, from Camacho's home in Escondido,
13 California.¹ (Id. ¶ 26; Declaration of Nerelys Camacho in
14 Opposition to Motion to Dismiss ¶ 6.) Defendants thereafter
15 released the car to the lienholder of the vehicle, without
16 providing Camacho with any formal notice of the seizure.² (SAC ¶
17 26.)

18 Camacho alleges that Defendants' practice of releasing seized
19 vehicles to the lienholder, without notice to the person from whom
20 a car is seized, violates the Civil Asset Forfeiture Reform Act, 18
21 U.S.C. § 983(a)(1). (SAC ¶¶ 5-7.) Defendants now move to dismiss
22 the SAC for failure to state a claim and for improper venue. (Mot.
23 at 9, 20.)

24 ///

25 _____

26 ¹ San Diego County and the city of Escondido both lie in the
Southern District of California.

27 ² The lienholder appears to be located either in Palo Alto,
28 California or in Colorado. (Declaration of Steven R. Welk in
Support of Motion to Dismiss, Exhibit B; Opp. At 22:12.)

1 **II. Discussion**

2 A defendant may seek dismissal of a claim for improper venue.
3 Fed. R. Civ. P. 12(b)(3); 28 U.S.C. § 1406(a). Camacho alleges
4 that venue is proper in this district pursuant to 28 U.S.C. § 1391.
5 Section 1391 states that, generally, civil actions against federal
6 defendants

7 may be brought in any judicial district in which A) a
8 defendant in the action resides, (B) a substantial part of the
9 events or omissions giving rise to the claim occurred, or a
substantial part of property that is the subject of the action
is situated, or (C) the plaintiff resides if no real property
is involved in the action.

10 28 U.S.C. § 1391(e)(1). Here, the allegations of the SAC bear no
11 connection whatsoever to the Central District of California.

12 Defendants assert, and Plaintiff does not dispute, that Defendants
13 are residents of the District of Columbia. (Mot. At 22.) None of
14 the events giving rise to Plaintiff's complaint occurred in the
15 Central District of California, nor is any of the property at issue
16 located here. Venue does not lie in the Central District of
17 California.

18 Implicitly conceding that venue is not proper, Plaintiff
19 argues that this case should be transferred to the Southern
20 District of California rather than dismissed. (Opp. at 23).
21 Indeed, the court must transfer a case where the interests of
22 justice so require. 28 U.S.C. 1406(a); Goldlawr, Inc. v. Heiman,
23 369 U.S. 463, 467 (1932) ("If by reason of the uncertainties of
24 proper venue a mistake is made, . . . the interest of justice may
25 require that the complaint not be dismissed" (internal
26 quotation marks omitted). Plaintiff appears to contend that the
27 interest of justice is implicated here solely because venue was
28


1 once proper in this district when Juan Rangel was the named
2 plaintiff. (Opp. at 23.) The court is unpersuaded.³ The
3 selection of Camacho as a substitute lead plaintiff did not involve
4 any particular uncertainties or intricacies, but rather
5 straightforward facts that could not support venue in this district
6 under any circumstances. Accordingly, Plaintiff's complaint must
7 be dismissed. 28 U.S.C. 1406(a).

8 **III. Conclusion**

9 For the reasons stated above, Defendants' Motion to Dismiss is
10 GRANTED.⁴

11
12
13
14 IT IS SO ORDERED.
15

16
17 Dated: April 9, 2012


DEAN D. PREGERSON
United States District Judge

18
19
20
21
22
23 ³ Camacho also points out, correctly, that this court has
24 broad discretion to grant motions to transfer venue. (Opp. at 8.)
25 No such motion, however, is before the court. Furthermore, Camacho
26 provides no explanation how considerations of fairness could
possibly weigh in favor of a plaintiff who, after haling a
defendant into court in one district, subsequently seeks to
transfer a case to a different district without any justification.

27 ⁴ Having dismissed Plaintiff's complaint for improper venue,
28 the court does not address Defendants' contentions regarding the
viability of Plaintiff's claims.